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12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 **Scott Johnson,**

16 Plaintiff,

17 v.

18 **John B. Segall**, in individual and  
19 representative capacity as trustee of  
20 the Revocable Trust of John B. Segall  
21 and Reva A. Segall and Reva A.  
22 Segall dated April 24, 1995;

23 **Reva A. Segall**, in individual and  
24 representative capacity as trustee of  
25 the Revocable Trust of John B. Segall  
and Reva A. Segall and Reva A.  
Segall dated April 24, 1995;

**Pedro R. Garcia;**

**Saratoga Industries, Inc.**, a  
California Corporation;

**Sandra E. Gonzalez;**

**Uriel Gonzalez**; and Does 1-10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of:** American's With Disabilities  
Act; Unruh Civil Rights Act

26 Plaintiff Scott Johnson complains of John B. Segall, in individual and  
27 representative capacity as trustee of the Revocable Trust of John B. Segall and  
28 Reva A. Segall and Reva A. Segall dated April 24, 1995; Reva A. Segall, in

1 individual and representative capacity as trustee of the Revocable Trust of  
2 John B. Segall and Reva A. Segall and Reva A. Segall dated April 24, 1995;  
3 Pedro R. Garcia; Saratoga Industries, Inc., a California Corporation; Sandra E.  
4 Gonzalez; Uriel Gonzalez; and Does 1-10 (“Defendants”), and alleges as  
5 follows:

6

7 **PARTIES:**

8 1. Plaintiff is a California resident with physical disabilities. Plaintiff is a  
9 level C-5 quadriplegic. He cannot walk and also has significant manual  
10 dexterity impairments. He uses a wheelchair for mobility and has a specially  
11 equipped van.

12 2. Defendant John B. Segall, in individual and representative capacity as  
13 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
14 Segall dated April 24, 1995, owned the real property located at or about  
15 18472 Prospect Rd., Saratoga, California, in November 2018.

16 3. Defendant Reva A. Segall, in individual and representative capacity as  
17 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
18 Segall dated April 24, 1995, owned the real property located at or about  
19 18472 Prospect Rd., Saratoga, California, in November 2018.

20 4. Defendant John B. Segall, in individual and representative capacity as  
21 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
22 Segall dated April 24, 1995, owned the real property located at or about  
23 18482 Prospect Rd., Saratoga, California, in November 2018.

24 5. Defendant Reva A. Segall, in individual and representative capacity as  
25 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
26 Segall dated April 24, 1995, owned the real property located at or about  
27 18482 Prospect Rd., Saratoga, California, in November 2018.

28 6. Defendant John B. Segall, in individual and representative capacity as

1 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
2 Segall dated April 24, 1995, owned the real property located at or about  
3 18486 Prospect Rd., Saratoga, California, in November 2018.

4 7. Defendant Reva A. Segall, in individual and representative capacity as  
5 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
6 Segall dated April 24, 1995, owned the real property located at or about  
7 18486 Prospect Rd., Saratoga, California, in November 2018.

8 8. Defendant John B. Segall, in individual and representative capacity as  
9 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
10 Segall dated April 24, 1995, owns the real property located at or about 18472  
11 Prospect Rd., Saratoga, California, currently.

12 9. Defendant Reva A. Segall, in individual and representative capacity as  
13 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
14 Segall dated April 24, 1995, owns the real property located at or about 18472  
15 Prospect Rd., Saratoga, California, currently.

16 10. Defendant John B. Segall, in individual and representative capacity as  
17 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
18 Segall dated April 24, 1995, owns the real property located at or about 18482  
19 Prospect Rd., Saratoga, California, currently.

20 11. Defendant Reva A. Segall, in individual and representative capacity as  
21 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
22 Segall dated April 24, 1995, owns the real property located at or about 18482  
23 Prospect Rd., Saratoga, California, currently.

24 12. Defendant John B. Segall, in individual and representative capacity as  
25 trustee of the Revocable Trust of John B. Segall and Reva A. Segall and Reva A.  
26 Segall dated April 24, 1995, owns the real property located at or about 18486  
27 Prospect Rd., Saratoga, California, currently.

28 13. Defendant Reva A. Segall, in individual and representative capacity as

1 trustee of the Revocable Trust of John B. Segall and Reva A. Segall dated April 24, 1995, owns the real property located at or about 18486  
2 Prospect Rd., Saratoga, California, currently.  
3

4 14. Defendant Pedro R. Garcia owned Café Blanc located at or about 18472  
5 Prospect Rd., Saratoga, California, in November 2018.

6 15. Defendant Saratoga Industries, Inc. owned Round Table Pizza located  
7 at or about 18482 Prospect Rd., Saratoga, California, in November 2018.

8 16. Defendants Sandra E. Gonzalez and Uriel Gonzalez owned La Cueva  
9 Mex Grill located at or about 18486 Prospect Rd., Saratoga, California, in  
10 November 2018.

11 17. Defendant Pedro R. Garcia owned Café Blanc located at or about 18472  
12 Prospect Rd., Saratoga, California, in January 2019.

13 18. Defendant Saratoga Industries, Inc. owned Round Table Pizza located  
14 at or about 18482 Prospect Rd., Saratoga, California, in January 2019.

15 19. Defendants Sandra E. Gonzalez and Uriel Gonzalez owned La Cueva  
16 Mex Grill located at or about 18486 Prospect Rd., Saratoga, California, in  
17 January 2019.

18 20. Defendant Pedro R. Garcia owns Café Blanc located at or about 18472  
19 Prospect Rd., Saratoga, California, currently.

20 21. Defendant Saratoga Industries, Inc. owns Round Table Pizza located at  
21 or about 18482 Prospect Rd., Saratoga, California, currently.

22 22. Defendants Sandra E. Gonzalez and Uriel Gonzalez own La Cueva Mex  
23 Grill located at or about 18486 Prospect Rd., Saratoga, California, currently.

24 23. Plaintiff does not know the true names of Defendants, their business  
25 capacities, their ownership connection to the property and business, or their  
26 relative responsibilities in causing the access violations herein complained of,  
27 and alleges a joint venture and common enterprise by all such Defendants.  
28 Plaintiff is informed and believes that each of the Defendants herein,

1 including Does 1 through 10, inclusive, is responsible in some capacity for the  
2 events herein alleged, or is a necessary party for obtaining appropriate relief.  
3 Plaintiff will seek leave to amend when the true names, capacities,  
4 connections, and responsibilities of the Defendants and Does 1 through 10,  
5 inclusive, are ascertained.

6

7 **JURISDICTION & VENUE:**

8 24. The Court has subject matter jurisdiction over the action pursuant to 28  
9 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
10 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

11 25. Pursuant to supplemental jurisdiction, an attendant and related cause  
12 of action, arising from the same nucleus of operative facts and arising out of  
13 the same transactions, is also brought under California's Unruh Civil Rights  
14 Act, which act expressly incorporates the Americans with Disabilities Act.

15 26. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is  
16 founded on the fact that the real property which is the subject of this action is  
17 located in this district and that Plaintiff's cause of action arose in this district.

18

19 **FACTUAL ALLEGATIONS:**

20 27. Plaintiff went to Café Blanc, Round Table Pizza and La Cueva Mex Grill  
21 in November 2018 (twice) and January 2019 with the intention to avail  
22 himself of its goods, motivated in part to determine if the defendants comply  
23 with the disability access laws.

24 28. Café Blanc, Round Table Pizza and La Cueva Mex Grill are facilities  
25 open to the public, places of public accommodation, and business  
26 establishments.

27 29. Round Table Pizza has a sales counter where it handles its transactions  
28 with customers.

1       30. Unfortunately, on the dates of the plaintiff's visits, the defendants did  
2 not provide an accessible sales counter in conformance with the ADA  
3 Standards.

4       31. Currently, the defendants do not provide an accessible sales counter in  
5 conformance with the ADA Standards.

6       32. Restrooms are another one of the facilities, privileges, and advantages  
7 offered by Defendants to patrons of Café Blanc, Round Table Pizza and La  
8 Cueva Mex Grill.

9       33. Unfortunately, on the dates of the plaintiff's visits, the defendants did  
10 not provide an accessible restroom in conformance with the ADA Standards.<sup>1</sup>

11      34. Currently, the defendants do not provide an accessible restroom in  
12 conformance with the ADA Standards.

13      35. Entrance into Café Blanc, Round Table Pizza and La Cueva Mex Grill is  
14 also one of the facilities, privileges, and advantages offered by Defendants to  
15 patrons of Café Blanc, Round Table Pizza and La Cueva Mex Grill.

16      36. Unfortunately, on the dates of the plaintiff's visits, the defendants did  
17 not provide an accessible door hardware in conformance with the ADA  
18 Standards.

19      37. Currently, the defendants do not provide an accessible entrance in  
20 conformance with the ADA Standards.

21      38. Paths of travel are one of the facilities, privileges, and advantages  
22 offered by Defendants to patrons of Café Blanc.

23      39. Unfortunately, on the dates of the plaintiff's visits, the defendants did  
24 not provide accessible paths of travel in conformance with the ADA Standards.

25      40. Currently, the defendants do not provide accessible paths of travel in

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27      <sup>1</sup> For example, the restroom door hardware at Café Blanc, Round Table Pizza and La Cueva Mex Grill had a  
28 traditional style knob that required tight grasping and twisting of the wrist to operate. On information and  
belief there are other issues with the restrooms that renders them non-compliant. Those issues will be fleshed  
out in discovery and inspections. The plaintiff seeks to have fully compliant restrooms provided.

1 conformance with the ADA Standards.

2       41. Plaintiff personally encountered these barriers.

3       42. By failing to provide accessible facilities, the defendants denied the  
4 plaintiff full and equal access.

5       43. The lack of accessible facilities created difficulty and discomfort for the  
6 Plaintiff.

7       44. The defendants have failed to maintain in working and useable  
8 conditions those features required to provide ready access to persons with  
9 disabilities.

10       45. The barriers identified above are easily removed without much  
11 difficulty or expense. They are the types of barriers identified by the  
12 Department of Justice as presumably readily achievable to remove and, in fact,  
13 these barriers are readily achievable to remove. Moreover, there are numerous  
14 alternative accommodations that could be made to provide a greater level of  
15 access if complete removal were not achievable.

16       46. Plaintiff will return to Café Blanc, Round Table Pizza and La Cueva Mex  
17 Grill to avail himself of its goods and to determine compliance with the  
18 disability access laws once it is represented to him that Café Blanc, Round  
19 Table Pizza and La Cueva Mex Grill and its facilities are accessible. Plaintiff is  
20 currently deterred from doing so because of his knowledge of the existing  
21 barriers and his uncertainty about the existence of yet other barriers on the  
22 site. If the barriers are not removed, the plaintiff will face unlawful and  
23 discriminatory barriers again.

24       47. Given the obvious and blatant nature of the barriers and violations  
25 alleged herein, the plaintiff alleges, on information and belief, that there are  
26 other violations and barriers on the site that relate to his disability. Plaintiff will  
27 amend the complaint, to provide proper notice regarding the scope of this  
28 lawsuit, once he conducts a site inspection. However, please be on notice that

1 the plaintiff seeks to have all barriers related to his disability remedied. See  
 2 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 3 encounters one barrier at a site, he can sue to have all barriers that relate to his  
 4 disability removed regardless of whether he personally encountered them).

5

**6 I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS  
 7 WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 8 Defendants.) (42 U.S.C. section 12101, et seq.)

9 48. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 10 again herein, the allegations contained in all prior paragraphs of this  
 11 complaint.

12 49. Under the ADA, it is an act of discrimination to fail to ensure that the  
 13 privileges, advantages, accommodations, facilities, goods and services of any  
 14 place of public accommodation is offered on a full and equal basis by anyone  
 15 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 16 § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 17     a. A failure to make reasonable modifications in policies, practices,  
        or procedures, when such modifications are necessary to afford  
        goods, services, facilities, privileges, advantages, or  
        accommodations to individuals with disabilities, unless the  
        accommodation would work a fundamental alteration of those  
        services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 18     b. A failure to remove architectural barriers where such removal is  
        readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
        defined by reference to the ADA Standards.
- 19     c. A failure to make alterations in such a manner that, to the  
        maximum extent feasible, the altered portions of the facility are  
        readily accessible to and usable by individuals with disabilities,

including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

50. When a business provides facilities such as a sales or transaction counter, it must provide an accessible sales or transaction counter in compliance with the ADA Standards.

51. Here, no such accessible sales counter at Round Table Pizza has been provided in compliance with the ADA Standards in violation of the ADA.

52. When a business provides facilities such as a restroom, it must provide an accessible restroom in compliance with the ADA Standards.

53. Here, no such accessible restrooms at Café Blanc, Round Table Pizza and La Cueva Mex Grill have been provided.

54. When a business provides an entrance, it must provide an accessible entrance in compliance with the ADA Standards.

55. Here, no such accessible entrance at Café Blanc, Round Table Pizza and La Cueva Mex Grill has been provided in compliance with the ADA Standards.

56. When a business provides paths of travel, it must provide accessible paths of travel in compliance with the ADA Standards.

57. Here, the failure to provide accessible paths of travel at Café Blanc is a violation of the ADA.

58. The Safe Harbor provisions of the 2010 Standards are not applicable here because the conditions challenged in this lawsuit do not comply with the 1991 Standards.

59. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

1       60. Here, the failure to ensure that the accessible facilities were available  
2 and ready to be used by the plaintiff is a violation of the law.

3

4 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
5 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
6 Code § 51-53.)

7       61. Plaintiff repleads and incorporates by reference, as if fully set forth  
8 again herein, the allegations contained in all prior paragraphs of this  
9 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
10 that persons with disabilities are entitled to full and equal accommodations,  
11 advantages, facilities, privileges, or services in all business establishment of  
12 every kind whatsoever within the jurisdiction of the State of California. Cal.  
13 Civ. Code § 51(b).

14       62. The Unruh Act provides that a violation of the ADA is a violation of the  
15 Unruh Act. Cal. Civ. Code, § 51(f).

16       63. Defendants’ acts and omissions, as herein alleged, have violated the  
17 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
18 rights to full and equal use of the accommodations, advantages, facilities,  
19 privileges, or services offered.

20       64. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
21 discomfort or embarrassment for the plaintiff, the defendants are also each  
22 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
23 (c).)

24       65. Although the plaintiff was markedly frustrated by facing discriminatory  
25 barriers, even manifesting itself with minor and fleeting physical symptoms,  
26 the plaintiff does not value this very modest physical personal injury greater  
27 than the amount of the statutory damages.

1           **PRAYER:**

2           Wherefore, Plaintiff prays that this Court award damages and provide  
3 relief as follows:

4           1. For injunctive relief, compelling Defendants to comply with the  
5 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
6 plaintiff is not invoking section 55 of the California Civil Code and is not  
7 seeking injunctive relief under the Disabled Persons Act at all.

8           2. Damages under the Unruh Civil Rights Act, which provides for actual  
9 damages and a statutory minimum of \$4,000 for each offense.

10          3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12

13 Dated: May 20, 2019

CENTER FOR DISABILITY ACCESS

14          By: 

15

16          Amanda Seabock, Esq.  
17          Attorney for plaintiff